

BROWN

THE BROWN LAW FIRM

450 WEST KENNEDY BLVD

P: 732.370.3000

LAKEWOOD, NJ 08701

F: 732.370.2100

Samuel Zev Brown  
sam@sambrownlaw.com  
Admitted in NJ, PA & NY

www.sambrownlaw.com

NJ.PA.NY

September 6, 2022

**Via ECF**

The Honorable Victor Marrero, U.S.D.J.  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007

**Re: BHYS Sales, Inc. v. P&R Packaging, et als.  
Civil Action No.: 1:19-cv-11397 (VM) (JW)**

***Defendants' Anticipated Motion For Summary Judgment***

Dear Judge Marrero:

The undersigned represents Defendants Raphael Badouch and 123 Deals from A to Z LLC in the above-referenced matter. Please accept this letter as a follow-up regarding Defendants' request for a pre-motion conference as to Defendants' proposed motion for summary judgment, pursuant to Your Honor's Individual Practices, § II.A.2. **As set forth below, due to Plaintiffs' failure to respond to Defendants' letter, in contravention of the Court's Individual Practices and a Court order entered on July 12, 2022, Defendants respectfully request that the Court schedule the requested pre-motion conference or simply permit Defendants to file their motion for summary judgment.**

On July 8, 2022, Defendants filed a status report regarding this litigation indicating that Defendants anticipated moving for summary judgment. On the same date, Defendants sent a letter to Plaintiffs' counsel advising that, unless Plaintiffs agreed to voluntarily agree to dismiss their claims against Defendants by July 11, 2022, Defendants would apply for permission to file a summary judgment motion. See Dkt. No. 78. On July 11, 2022, having heard no response from Plaintiffs' counsel, Defendants filed a letter with the Court requesting a pre-motion conference with regard to Defendants' proposed motion for summary judgment. See Dkt. No. 79.

Your Honor's Individual Practices, § II.A.2, provide that "Any party opposing the motion must submit a reply letter within two business days of receiving the pre-motion letter indicating whether the proposed motion will be opposed, and if so, the basis for the opposition." Plaintiff did not file any response to Defendants' letter requesting a pre-motion conference.

On July 12, 2022, the Court entered an order providing as follows: “On July 8, 2022, pursuant to the Court’s Individual Practices, Defendants filed a letter to Plaintiffs’ counsel in anticipation of moving for summary judgment. (See Dkt. No. 78-1.) Having received no recorded response from Plaintiffs, the Court hereby directs Plaintiffs to file their response on or before July 14, 2022.” See Dkt No. 80. No response has been filed by the Plaintiffs to date.

In light of Plaintiffs’ failure to respond to Defendants’ letter, in contravention of the Court’s Individual Practices and the Court’s order entered on July 12, 2022, Defendants respectfully request that the Court schedule the requested pre-motion conference or simply permit Defendants to file their motion for summary judgment, as Plaintiffs have not indicated that they would oppose the motion, nor have they identified any basis for opposing summary judgment.

Thank you for the Court’s consideration of this request.

Respectfully submitted,

/s Samuel Z. Brown  
SAMUEL Z. BROWN, ESQ.

Cc: Adam E. Engel, Esq. (via ECF)